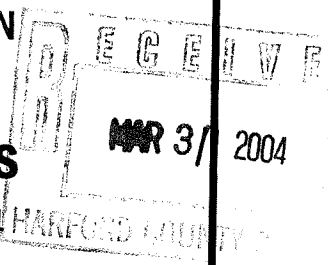


STANDARD APPLICATION
Harford County
Board of Appeals

Bel Air, Maryland 21014



Case No. 5419
Date Filed 3-29-04
Hearing Date _____
Receipt _____
Fee \$450

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☒ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction
☒ NATURAL RESOURCE DISTRICT VAR.

CASE 5419 MAP 41 TYPE Variance

ELECTION DISTRICT 3 LOCATION 909 Autumn View Court, Bel Air, Md. 21014

BY Robert and Robin Fortney

Appealed because a variance pursuant to Section 267-41D(5)(e) and (6) of the Harford County Code to allow an inground pool within the 75' NRD Buffer in an R1 District requires approval by the Board.

75' NRD BUFFER.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name ROBERT FORTNEY Phone Number 410-838-0629
Address 909 AUTUMN VIEW CT. BEL AIR MD 21014
Street Number Street City State Zip Code

Co-Applicant ROBIN FORTNEY Phone Number 410-838-0629
Address 909 AUTUMN VIEW CT. BEL AIR MD 21014
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property

909 AUTUMN VIEW COURT
BEL AIR, MD 21014

Subdivision

LONGMEADOW

Lot Number

00028

Acreage/Lot Size

.588

Election District

03

Zoning

R1

Tax Map No.

041

Grid No.

3B

Parcel

627

Water/Sewer: Private

Public



List ALL structures on property and current use:

HOUSE, GARAGE, DECK, PATIO

Estimated time required to present case:

15 MINUTES

If this Appeal is in reference to a Building Permit, state number

N/A

Would approval of this petition violate the covenants and restrictions for your property?

NO

Is this property located within the County's Chesapeake Bay Critical Area? Yes

No



If so, what is the Critical Area Land Use designations:

N/A

Is this request the result of a zoning enforcement investigation? Yes

No



Is this request within one (1) mile of any incorporated town limits? Yes



No

RequestCONSTRUCTION OF A 20' x 40' IN-GROUND
SWIMMING POOL WITH IN THE 75' NRD BUFFER ZONE.**Justification**

PLEASE REFER TO ATTACHMENT.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

APPLICATION FOR VARIANCE

**Robert & Robin Fortney
909 Autumn View Court
Bel Air, MD 21014**

Request & Justification Statement

We are requesting a variance to install a 20' x 40' in ground swimming pool and concrete walkway/pad within the current buffer zone located on our property at 909 Autumn View Court. The pool would be located center and parallel to the back of our house.

The justification for this variance to locate improvements within the buffer zone is as follows:

- The property is encumbered with a hundred year flood plain, a natural resource district, the associated 75' buffer zone and three of the four rear boundaries have 10 foot drainage easements, leaving very little land outside of the NRD buffer.**
- The land that is outside of the NRD is located too close to the property line to allow the construction of a pool of the proposed dimensions without being in violation of the Harford County Swimming Pool Code. This section of land is located in very close proximity to our neighbor's property as well as bordering an underground drainage run from the street. The area is also in nearly continuous shade from trees located in the NRD buffer zone.**
- For reasons of safety and security, the most logical site for construction is directly behind the house. The encroachment into the buffer zone is kept to a minimum at this location and does not require the removal of any existing trees. Indeed, the grade of the property is such that construction directly behind the house is the only option that does not entail undue expense and disruption of the property.**
- The variety of NRD buffer zone and unique topography of the land cause a difficulty and unreasonable hardship concerning building on the property. The majority of the homeowners in the court do not face this hardship. Two homeowners on the same side of the court have been able to construct pools. We wish to have the same opportunity for use of our property.**
- Because of the proposed construction location, we believe the approval of the variance would not be detrimental to the common wetlands area that the buffer zone was established to protect.**

ROBERT & ROBIN FORTNEY
909 AUTUMN VIEW COURT
BEL AIR, MD 21014

SUBDIVISION: LONGMEADOW

MAP: 41

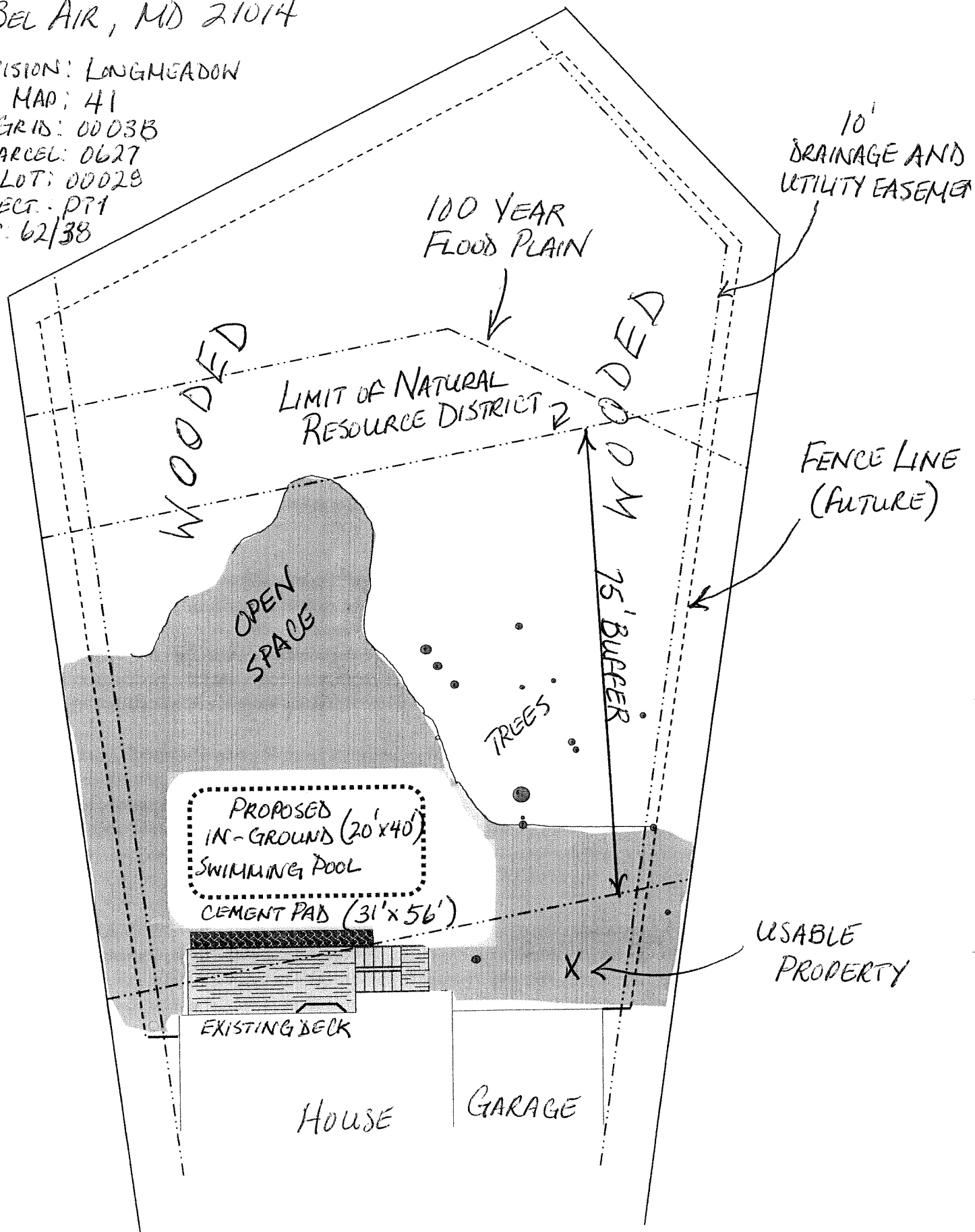
GRID: 0003B

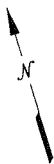
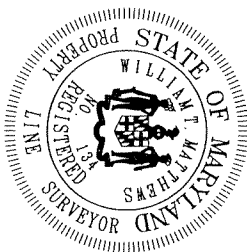
PARCEL: 0627

LOT: 00028

SECT: PT1

PLAT: 62/38





Location Drawing

Scale: 1" = 50'

This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, dwellings or other existing or future improvements nor does this plat purport to reflect setbacks or other distances with any specific level of accuracy. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. The approximate location of the dwelling is shown in relation to the apparent property lines for the property known as

909 Autumn View Court
 Harford County, Maryland

Nelson T. Matthews 4/30/02

Ruston Design Corporation

8422 Bellona Lane

Suite 300

Towson, Maryland 21204

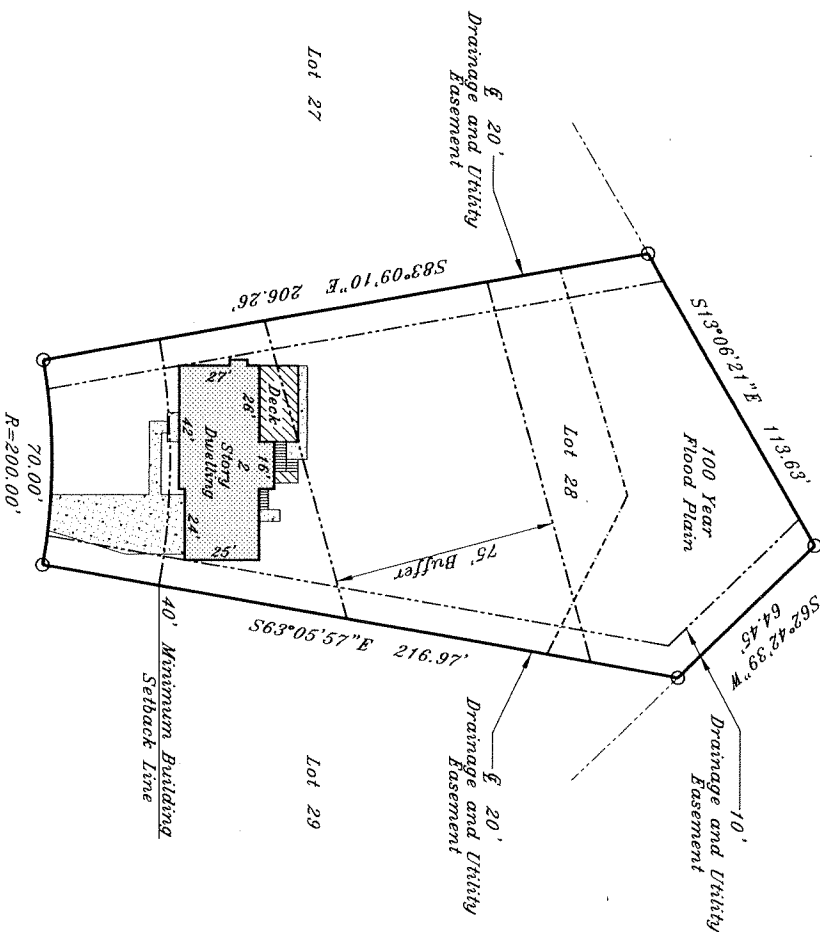
410-823-5000

410-823-0115 fax

rdc@rustondesign.com www.rustondesign.com

02-2111CJM

AUTUMN VIEW COURT



Dwelling lies in Flood Zone
 C

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

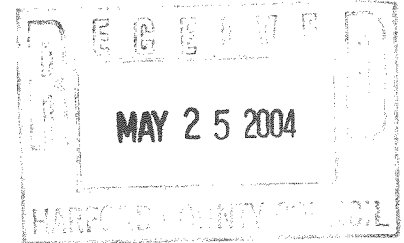


J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 25, 2004



STAFF REPORT

BOARD OF APPEALS CASE NO. 5419

APPLICANT/OWNER: Robert Fortney
909 Autumn View Court, Bel Air, Maryland 21014

Co-APPLICANT: Robin Fortney
909 Autumn View Court, Bel Air, Maryland 21014

REPRESENTATIVE: Applicants

LOCATION: 909 Autumn View Court/Longmeadow Subdivision
Tax Map: 41 / Grid: 3B / Parcel: 627 / Lot: 28
Election District: Third (3)

ACREAGE: 0.588

ZONING: R1/Urban Residential District.

DATE FILED: March 29, 2004

HEARING DATE: June 2, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

Request:

"Construction of a 20' x 40' in-ground swimming pool within the 75' NRD Buffer Zone."

"Preserving our values, protecting our future."

STAFF REPORT

Board of Appeals Case Number 5419

Robert & Robin Fortney

Page 2 of 4

Justification:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-41D(5)(e) and (6) of the Harford County Code to allow an in-ground pool within the Natural Resource District Buffer (NRD) in an R1/Urban Residential District.

Section 267-41D(5)(e) of the Harford County Code reads:

- (5) *Conservation requirements. The following conservation measures are required within this district:*
 - (e) *Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75) feet shall be maintained in areas adjacent to wetlands.*
- (6) *Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located on the east side of Autumn View Court, south of Henderson Road, in the development of Longmeadow. A location map plat for the lot and a copy of the Applicants' site plan are enclosed with the report (Attachments 2, 3 and 4).

The subject property is located within the Development Envelope. The predominant land use designations in the area are Low and Medium Intensities. The Natural Features Map reflects stream buffer systems. The subject property is designated as Medium Intensity, which is defined by the 1996 Master Plan as:

Medium Intensity - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 5 and 6).

STAFF REPORT

Board of Appeals Case Number 5419

Robert & Robin Fortney

Page 3 of 4

Land Use – Existing:

The existing land uses in this area of the County conform to the intent of the 1996 Master Plan. The predominant land use is residential with housing types ranging from conventional single-family dwellings, condominiums and garden apartments. Enclosed with the report is a copy of the aerial photograph (Attachment 7).

The subject lot is approximately 0.588 of an acre in size and is unusually shaped. Approximately two thirds of the lot is within the NRD District. Because of the constraints on the lot, the previous owner, Paul A. Waddell, went to the Board of Appeals in April 1994 to obtain a variance to construct the existing deck. The topography of the lot ranges from level to rolling (Attachment 8). Improvements consist of a brick and frame two-story dwelling with an attached two-car garage, a concrete driveway and a deck attached to the rear with a patio under the deck. The property is nicely landscaped and all improvements appear to be well maintained. The rear portion of the lot contains non-tidal wetlands, 100-year flood plain and mature forest. Enclosed with the report is an enlargement of the aerial photograph (Attachments 9 and 10).

Zoning:

The zoning classifications conform to the overall intent of the 1996 Master Plan as well as the existing land uses. The predominant zoning classifications range from R1 to R3/Urban Residential. The subject property is zoned R1/Urban Residential District as shown on the enclosed zoning map (Attachment 11).

Zoning History:

This property has been the subject of previous Board of Appeals requests. Case Number 4420 was approved by the Board of Appeals on April 5, 1994 for a variance to allow an existing deck within the required 75-foot NRD Buffer (7-foot encroachment). A copy of the Board's decision is enclosed with the report (Attachment 12).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-41D(5)(e) and (6) of the Harford County Code to allow an in-ground pool within the Natural Resource District Buffer (NRD) in an R1/Urban Residential District.

Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.

STAFF REPORT

Board of Appeals Case Number 5419

Robert & Robin Fortney

Page 4 of 4

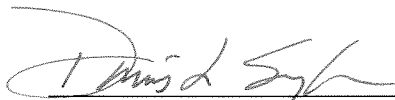
The Department finds that the subject property is unique. The majority of the property is located within the NRD area. The area proposed for the pool is currently lawn and no trees will need to be cleared. The area is mostly level, therefore only minimal grading will be required. The pool should be able to be constructed without adversely impacting the wetlands. The remaining area between the pool and the wetlands should be re-vegetated.

The Department has not received comments from the Maryland Department of the Environment or the Soil Conservation District at this time.

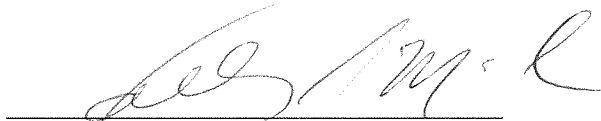
RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicants shall obtain all necessary permits and inspections for the construction of the pool.
2. The Applicants shall submit a landscaping plan for the remaining area between the pool and the existing forest.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka